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UNITED STATES DISTRICT COURT

DISTRICT OF WYOMING

IRON BAR HOLDINGS, LLC, a North)
Carolina limited liability company registered)
to do business in Wyoming,)
)
Plaintiff,)
)
vs.) Case No. 22-CV-00067-SWS
)
BRADLY H. CAPE, an individual,)
ZACHARY M. SMITH, an individual,)
PHILLIP G. YEOMANS, an individual, and)
JOHN W. SLOWENSKY, an individual,)
)
Defendants.)

STIPULATION AS TO FACTS

COME NOW Plaintiff Iron Bar Holdings, LLC, by and through its attorneys M. Gregory Weisz and Crystal D. Stewart of Pence and MacMillan LLC, **and** Defendants Bradly H. Cape, Zachary M. Smith, Phillip G. Yeomans, and John W. Slowensky, by and through their attorneys Ryan A. Semerad of the Fuller & Semerad Law Firm and Lee Mickus and Alexandria Layton of Evans Fears & Schuttert LLP, and submit this *Stipulation as to Facts* as follows:

1. Plaintiff Iron Bar Holdings, LLC, is a North Carolina limited liability company. Iron Bar Holdings, LLC (hereinafter "Plaintiff" or "IBH") owns real property located in Carbon County, Wyoming. Frederic N. Eshelman is the sole member of Iron Bar Holdings, LLC.

2. IBH sometimes does business as Elk Mountain Ranch.

3. Defendants are Bradly H. Cape (“Cape”), Zachary M. Smith (“Smith”), Phillip G. Yeomans (“Yeomans”), and John W. Slowensky (“Slowensky”).

4. Plaintiff’s real property relevant to this case is situated on the odd-numbered sections of land in: (i) Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming, (ii) Township 20 North, Range 81 West, 6th P.M., Carbon County, Wyoming, (iii) Township 19 North, Range 81 West, 6th P.M., Carbon County, Wyoming, and (iv) Township 19 North, Range 82 West, 6th P.M. Carbon County, Wyoming.

5. Plaintiff’s real property is interspersed in a checkerboard-like pattern with even-numbered sections of land owned by the Town of Hanna or the State of Wyoming or federally-owned land managed by the Bureau of Land Management.

6. In Township 20 North, Range 82 West 6th P.M., Carbon County, Wyoming at the corners of Section 13 (owned by IBH), Section 14 (managed by BLM), Section 23 (owned by IBH), and Section 24 (managed by BLM), IBH posted two “No Trespassing” signs on its real property on steel fence posts facing northwest, clearly visible to others, including the Defendants, connected by a chain and a lock. IBH installed these posts, signs, chain, and lock several inches inside the property boundary lines separating Sections 13 and 23 from Sections 14 and 24.

7. On or about February 11, 2022, IBH’s ranch manager, Steven Grende, removed the chain and lock connecting the posts and signs.

8. Section 14, Township 20 North, Range 82 West is crossed by a public road, Carbon County Road 400. A person can travel on Carbon County Road 400 to enter Section 14 and then walk from that road in a southeasterly direction towards the corners described in ¶ 6 above.

9. IBH asserts exclusive control over who may travel over the corner described in ¶ 6 above on, across, or through its property, by virtue of its ownership interest in the airspace above its private property in Section 13 and Section 23.

10. Cape, Smith, and Yeomans acknowledge that in 2020 they crossed over the corners described in ¶ 6 above multiple times.

11. In September 2021 and October 2021, Cape, Smith, and Yeomans returned to the Elk Mountain area to hunt again. In 2021, Slowensky joined them. Each man had a valid hunting license or tag to hunt in the area.

12. During this 2021 hunt, the four Defendants brought a ladder with them. They brought the ladder to cross over the corners described in ¶ 6 above without having to make physical contact with IBH's posts, signs, chain, or lock in the area as Mr. Grende had warned them against doing in 2020.

13. In September 2021 and October 2021, Cape, Smith, Yeomans, and Slowensky crossed the corners described in ¶ 6 above. They did so on foot by beginning on Section 14 (BLM), and they used the ladder to cross over the corner to enter into Section 24 (BLM).

14. In addition to the real property described in ¶ 6 above, Defendants crossed over seven (7) other corner locations, described as follows:

- #1. Corners of 24/19/25/30: being Township 20 North, Range 82 West, Section 24 (BLM), Township 20 North, Range 82 West, Section 25 (IBH), Township 20 North, Range 81 West, Section 19 (IBH), and Township 20 North, Range 81 West, Section 30 (BLM).
- #2. Corners of 23/24/26/25: being Township 20 North, Range 82 West, Section 23 (IBH), Township 20 North, Range 82 West, Section 24 (BLM), Township 20 North,

Range 82 West, Section 26 (State of Wyoming), and Township 20 North, Range 82 West, Section 25 (IBH).

- #3. Corners of 25/30/36/31: being Township 20 North, Range 82 West, Section 25 (IBH), Township 20 North, Range 81 West, Section 30 (BLM), Township 20 North, Range 82 West, Section 36 (State of Wyoming), and Township 20 North, Range 81 West, Section 31 (IBH).
- #4. Corners of 36/31/1/6: being Township 20 North, Range 82 West, Section 36 (State of Wyoming), Township 20 North, Range 81 West, Section 31 (IBH), Township 19 North, Range 82 West, Section 1 (IBH), and Township 19 North, Range 81 West, Section 6 (BLM).
- #5. Corners of 26/25/35/36: being Township 20 North, Range 82 West, Section 26 (Town of Hanna), Township 20 North, Range 82 West, Section 25 (IBH), Township 20 North, Range 82 West, Section 35 (IBH), and Township 20 North, Range 82 West, Section 36 (State of Wyoming).
- #6. Corners of 6/5/7/8: being Township 19 North, Range 81 West, Section 6 (BLM), Township 19 North, Range 81 West, Section 5 (IBH), Township 19 North, Range 81 West, Section 7 (IBH), and Township 19 North, Range 81 West, Section 8 (BLM); and
- #7. Corners of 5/6/31/32: being Township 19 North, Range 81 West, Section 6 (BLM), Township 19 North, Range 81 West, Section 5 (IBH), Township 20 North, Range 81 West, Section 31 (IBH), and Township 20 North, Range 81 West, Section 32 (BLM).

15. At each of the seven locations described in ¶ 14 above, IBH owns two sections of land that lie in checkboard fashion with respect to adjacent sections of land that are either: (i) owned by the State of Wyoming, (ii) BLM-managed lands, or (iii) owned by the Town of Hanna.

16. In crossing corners at these seven locations, Defendants did not use the ladder, but instead visually located and then stepped over the brass survey caps marking the section corners at these locations.

RESPECTFULLY SUBMITTED this 17th day of May, 2023.

/s/ M. Gregory Weisz

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of May, 2023, a true and correct copy of the above and foregoing document was served by CM/ECF upon the following:

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